

IN THE UNITED STATES DISTRICT COURT FOR  
THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

SHARON DAVIS and  
MICAH DAVIS,

Plaintiffs

vs.

UNITED STATES OF AMERICA,

Defendant

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No. 5:19-cv-503

**PLAINTIFFS' DESIGNATION OF TESTIFYING EXPERTS**

Plaintiffs serve this designation of Retained Testifying Experts pursuant to Fed. R. Civ. P. 26(a)(2)(B) and the Court's Scheduling Order.

**I. TESTIFYING EXPERTS**

Plaintiffs designate the following retained expert witnesses to provide testimony in this case:

**A. *Thomas M. DeBerardino, MD***

Areas of Expertise: Orthopedic surgery

Dr. Thomas DeBerardino is board certified in orthopedic surgery. He is a clinical professor with the Department of Orthopaedic Surgery at Baylor Medical Center and Co-Director of the Baylor-San Antonio Orthopaedic Group. For a more detailed summary of Dr. DeBerardino's skills, training, education, experience, and knowledge, please see his

*curriculum vitae*, which has been separately served on Defendant as **Exhibit 1** to this designation and is incorporated by reference into this designation. His CV also contains a list of his publications.

Dr. DeBerardino will testify to any orthopedic, including knee arthroscopy and reconstructive surgery, issues in this case. He will testify to any subject on which he has factual knowledge or is within his area of expertise. He will testify regarding any opinion or fact or issue raised by the Defendant, its employees, any of Defendant's witnesses, or any Defense expert within their area of expertise. His expected testimony will address causation and damages issues surrounding the facts that are the subject of this lawsuit and that are within his area of expertise. His opinions are based on a review of Sharon Davis' health care records, imaging studies, testimony taken and to be taken in this case, any specific literature he may have relied upon, and his education, training, and experience.

At this time, Plaintiffs have no further knowledge of the mental impressions, opinions and facts known to this expert other than those contained in his report. For a more detailed discussion of his opinions and basis for those opinions, please see his report which is attached as **Exhibit 2** and which is incorporated by reference into this designation. He is available for deposition and Defendant may examine him for a more detailed explanation of his opinions and basis for those opinions relating to this case. Once he has given deposition or other testimony in this case, Plaintiffs incorporate such testimony by reference into this designation.

Dr. DeBerardino charges \$750/hour for case review and deposition testimony and \$8,000/day for trial. A list of cases Dr. DeBerardino has testified in by deposition or trial is attached as **Exhibit 3**.

Dr. DeBerardino reserves the right to use any exhibits previously produced by Plaintiffs, any part or part of his expert report or cited literature, any exhibits that have or will be exchanged in discovery, and any documents that he brings with him to his deposition. Dr. DeBerardino is also extensively published in the orthopedic area (see CV) and reserves the right to use his own publications as exhibits at trial or in response to testimony given by Defense experts.

**B. *David Altman, MD***

Area of Expertise: Life Care Planning and Neurology

Dr. David Altman is a Certified Life Care Planner and Neurologist. Dr. Altman earned his medical doctorate from the University of CT School of Medicine. He is a Diplomate with the American Board of Psychiatry and Neurology and maintains a license from the American Academy of Disability Evaluation Physicians. For a more detailed summary of Dr. Altman's skills, training, education, experience, and knowledge, please see his curriculum vitae, which has been separately served on Defendant as **Exhibit 4** to this designation and is incorporated by reference into this designation.

Dr. Altman will testify to any rehabilitation and life care planning issues in this case. He will testify to any subject on which he has factual knowledge or is within his area of expertise. He will testify regarding any opinion or fact or issue raised by the

Defendant, its employees, any of Defendant's witnesses, or any Defense expert within his area of expertise.

His opinions are based on an interview, evaluation, and physical examination of Sharon Davis and review of Ms. Davis' health care records, testimony taken and to be taken in this case, any specific literature he may have relied upon, and his education, training, and experience. He has also consulted the opinions of Dan Bagwell, R.N., CLCP. At this time, Plaintiffs have no further knowledge of the mental impressions, opinions and facts known to this expert other than those contained in his report. For a more detailed discussion of his opinions and bases for those opinions, please see his report which has been separately served on Defendant as **Exhibit 5** and which is incorporated by reference into this designation. He is available for deposition and Defendant may examine him for a more detailed explanation of his opinions and basis for those opinions relating to this case. Once he has given deposition or other testimony in this case, Plaintiffs incorporate such testimony by reference into this designation.

Dan Bagwell and Dr. Altman charge \$10,500 for a life care plan with cost analysis. A list of the cases he has testified either by deposition or trial has been separately served on Defendant as **Exhibit 6** and is incorporated by reference into this designation.

Dr. Altman reserves the right to use any exhibits previously produced by Plaintiffs, any part or part of his expert report or cited literature, any exhibits that have or will be exchanged in discovery, and any documents that he brings with him to his deposition.

**C. Dan Bagwell, RN, CLCP**

Area of Expertise: Life Care Planning and Case Management

Dan Bagwell is a Certified Life Care Planner, Certified Case Manager, and Certified Disability Management Specialist. Mr. Bagwell earned a Bachelor of Science in Nursing from University of Mississippi School of Nursing. For a more detailed summary of Mr. Bagwell's skills, training, education, experience, and knowledge, please see his curriculum vitae, which has been separately served on Defendant as **Exhibit 7** to this designation and is incorporated by reference into this designation.

Dan Bagwell will testify to any rehabilitation and life care planning issues in this case. He will testify to any subject on which he has factual knowledge or is within his area of expertise. He will testify regarding any opinion or fact or issue raised by the Defendant, its employees, any of Defendant's witnesses, or any Defense expert within his area of expertise.

His opinions are based on an interview, evaluation, and physical examination of Sharon Davis and review of Ms. Davis' health care records, testimony taken and to be taken in this case, any specific literature he may have relied upon, and his education, training, and experience. He has also consulted the opinions of Dr. David Altman. At this time, Plaintiffs have no further knowledge of the mental impressions, opinions and facts known to this expert other than those contained in his report. For a more detailed discussion of his opinions and bases for those opinions, please see his report which has been separately served on Defendant as **Exhibit 5** and which is incorporated by reference into this designation. He is available for deposition and Defendant may examine him for a more detailed explanation of his opinions and basis for those opinions relating to this

case. Once he has given deposition or other testimony in this case, Plaintiffs incorporate such testimony by reference into this designation.

Dan Bagwell and Dr. Altman charge \$10,500 for a life care plan with cost analysis. A list of the cases he has testified either by deposition or trial has been separately served on Defendant as **Exhibit 8** and is incorporated by reference into this designation.

Dan Bagwell reserves the right to use any exhibits previously produced by Plaintiffs, any part or part of his expert report or cited literature, any exhibits that have or will be exchanged in discovery, and any documents that he brings with him to his deposition.

***D. Keith Fairchild, Ph.D.***

**Areas of Expertise: Economics and Finance**

Dr. Keith Fairchild is an expert in economic and financial analysis. He received is masters and doctoral degree in finance from the University of Texas at Austin. For a more detailed summary of Dr. Fairchild's skills, training, education, experience, and knowledge, please see his curriculum vitae that is attached as **Exhibit 9** to this designation and is incorporated by reference into this designation. Dr. Fairchild will testify as to any economic or financial in this case. He will testify as to any subject on which he has factual knowledge or is within his area of expertise. He will testify regarding any opinion or fact or issue raised by the Defendant, its employees, any of Defendant's witnesses, or any Defense expert within his area of expertise. His expected testimony will address damage issues surrounding the facts that are the subject of this lawsuit. His opinions are based on a review of testimony taken and to be taken in this

case, a list of documents described in his expert report, any specific literature he may have relied upon, and his education, training, skills, knowledge.

At this time, Plaintiffs have no further knowledge of the mental impressions, opinions and facts known to this expert other than those contained in his report. For a more detailed discussion of his opinions and bases for those opinions, please see his report, which will be supplemented at a later date by agreement. He is available for deposition and Defendant may examine him for a more detailed explanation of his opinions and basis for those opinions relating to this case. Once he has given deposition or other testimony in this case, Plaintiffs incorporate such testimony by reference into this designation.

A summary of the cases Dr. Fairchild's has testified either by deposition or trial is attached as **Exhibit 10** and is incorporated by reference into this designation. Dr. Fairchild charges \$400.00 per hour, including time awaiting testimony. Out of town travel time is charged at the rate of one hour per time zone each way plus expenses.

Dr. Fairchild reserves the right to use any exhibits previously produced by Plaintiffs, any part or part of his expert report or cited literature, any exhibits that have or will be exchanged in discovery, and any documents that he brings with him to his deposition.

## **II. NON-RETAINED EXPERTS**

Plaintiffs designate all non-retained treaters identified in Plaintiffs' initial disclosures, and supplements to and Exhibit 1 to the initial disclosures and supplements

(Designation of Persons with Knowledge of Relevant Facts.) Plaintiffs incorporate those lists by reference herein. Plaintiffs also reserve the right to use the deposition testimony or call live these treating doctors, in the control of the Defendant. Plaintiffs also cross designate any experts designated by the United States for the limited purpose of reserving the right to elicit favorable admissions at trial, either by deposition or in person. At this point, however, Plaintiffs do not possess any other information regarding their mental impressions.

### **III. OTHER WITNESSES & EXHIBITS**

For a designation of potential witnesses and proposed exhibits, please see Plaintiffs' Initial Disclosures, and Exhibit 1 of Initial Disclosures, and any supplements to the Initial Disclosures and Exhibit 1. Plaintiffs incorporate those documents into this document by reference.

Respectfully Submitted,

/s/ Laurie Higginbotham  
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**CERTIFICATE OF SERVICE**

By my signature above, I certify that a copy of this pleading has been sent to the following on January 15, 2020 via email and USPS.

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